



SPONSOR: Rep. Mitchell & Sen. Peterson
Reps. Barbieri, Bolden, Heffernan, Kowalko, Longhurst,
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HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 58

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO PROHIBITED CONDUCT IN
CONNECTION WITH LARGE-CAPACITY MAGAZINES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 11 of the Delaware Code by making insertions as shown by underlining as follows:

§ 1462. Manufacture, sale, transfer, purchase, receipt or unlawful possession of large-capacity magazines.

(a) Except as otherwise specified herein, no person shall manufacture, sell, transfer, purchase, receive or possess
unlawfully any large-capacity magazine.

(b) For purposes of this section:

(1) "Large-capacity magazine" means any ammunition feeding device with the capacity to accept more than 10
rounds, but shall not include (A) an ammunition feeding device that has been permanently altered so that it cannot
accommodate more than 10 rounds, or (B) an attached tubular ammunition feeding device designed to accept, and capable
of operating only with, .22 caliber rimfire ammunition.

(2) "Licensed firearms dealer" means any person licensed as a deadly weapons dealer pursuant to Chapter 9 of
Title 24 and 18 U.S.C. § 921 et seq.

(3) "Not readily operable" means that the large-capacity magazine or firearm is disassembled, broken down, or
stored in a manner to prevent its immediate use.

(4) "Possess" or "possession" means that the person has the item under his or her dominion and authority, and that
said item is at the relevant time physically available and accessible to the person.

(5) "Possess unlawfully" or "unlawful possession" means possession of a large-capacity magazine in a public
place while in possession of a firearm capable of accepting such magazine. It shall be an affirmative defense to prosecution
for unlawful possession of a large-capacity magazine under this section that either the large-capacity magazine or the
firearm was not readily operable.

(6) "Public place" has the meaning set forth in 11 Del.C. § 1460(b)(3); provided, however, that any shooting
range, as such term is defined in paragraph (8) herein, shall not be considered a public place.

(7) "Qualified active duty law-enforcement officer" has the meaning set forth in 11 Del.C. § 1441A(a)(5).

(8) "Qualified retired law-enforcement officer" has the meaning set forth in 11 Del.C. § 1441A(a)(6).

(9) "Shooting range" means any land or structure used and operated in accordance with all applicable laws and ordinances for the shooting of targets for training, education, practice, recreation, or competition.

(10) "Short-term rental" means the rental of a large-capacity magazine by a shooting range to a customer for use upon the premises of the shooting range in accordance with all applicable laws and ordinances, for a duration of no more than 8 hours.

(c) This section does not apply to the purchase, receipt or possession of a large-capacity magazine by:

(1) any member of the armed forces of the United States or member of the National Guard, provided such person is acting within the scope of his or her official duties;

(2) any qualified active duty law-enforcement officer or qualified retired law-enforcement officer; or

(3) any employee or authorized representative of a shooting range in connection with the short-term rental of large-capacity magazines.

(d) This section does not apply to any licensed firearms dealer that is:

(1) repairing or servicing a large-capacity magazine for any person authorized by law to possess same;

(2) altering a large-capacity magazine so that it cannot accommodate more than 10 rounds; or

(3) selling a large-capacity magazine to another licensed dealer or to any other person exempted under subsection (c) of this section.

(e) This section does not apply to any manufacturer that is:

(1) repairing or servicing a large-capacity magazine for any person authorized by law to possess same;

(2) altering a large-capacity magazine so that it cannot accommodate more than 10 rounds; or

(3) manufacturing a large-capacity magazine for export or for sale to government agencies or the military pursuant to applicable state and federal laws and regulations.

(f) Any person violating this section shall be guilty of a class A misdemeanor for a first offense and a class G felony for any subsequent offense. The Superior Court shall have exclusive jurisdiction over all violations of this section.

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and, to that end, the provisions of this Act are declared to be severable.

Section 3. This Act shall have an effective date of July 1, 2013.

SYNOPSIS

This bill would prohibit the manufacture, sale, purchase, transfer or delivery of large-capacity magazines, which are defined as ammunition feeding devices with the capacity to accept more than 10 rounds. Acknowledging that thousands of law-abiding Delawareans currently possess large-capacity magazines lawfully, the bill would make such possession unlawful only if it occurs in a public place while in possession of a firearm capable of accepting it. Possession of a large-capacity magazine would not be unlawful in areas that are not public places, and an exception exists to allow the possession and use of large-capacity magazines at shooting ranges. Persons who violate this Act would be guilty of a class A misdemeanor for a first offense and a class G felony for any subsequent offense.